

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, : 09 CR 135

5 :

6 -against-

7 :

United States Courthouse
Brooklyn, New York

8 JOHN BURKE, :

9 June 5, 2012

10 Defendant. : 9:30 o'clock a.m.

11 - - - - - X

12 TRANSCRIPT OF TRIAL
13 BEFORE THE HONORABLE STERLING JOHNSON
UNITED STATES SENIOR JUDGE, and a jury.

14 APPEARANCES:

15 For the Government:

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20 For the Defendant:

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RICHARD JASPER, ESQ.
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22 Court Reporter:

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24 Proceedings recorded by mechanical stenography, transcript
25 produced by computer-aided transcription.

1 (The following occurred in the absence of the jury
2 at 11:00 o'clock am.)

3 THE COURT: They want testimony. I will read the
4 note into the record.

5 Let the record reflect court has received another
6 note from the jury which reads as follows, marked Court's
7 Exhibit number 9:

8 Your Honor:

9 Please give us the transcription of P. Andriano.

10 Is that Paulie Polite?

11 MR. NORRIS: Pasquale, yes.

12 THE COURT: And Mr. M. Malone. We are asking for
13 the entire testimony.

14 That means direct, cross, redirect, recross.

15 Get together and look at the testimony. White out
16 the objections and anything that I deemed excluded and we will
17 send it back to the jury.

18 If there is a disagreement on anything in the
19 record, you will let me know and I will decide.

20 MR. NORRIS: Very well. We can start.

21 THE COURT: Okay.

22 MR. NORRIS: We will get started on that now.

23 THE COURT: Okay. We don't have to bring the jury
24 out. We will just send it in.

25 (Recess taken.) (Continued on next page.)

1 (The following occurred in the absence of the jury
2 at 4:30 p.m.)

3 THE COURT: Do you have a copy of the note?

4 MR. NORRIS: Yes, sir.

5 THE COURT: We will bring the jury in and read the
6 note. I guess you guys will get the testimony tonight. We
7 will give it to them tomorrow.

8 MR. NORRIS: Yes. We will prepare it tonight. We
9 will share it with defense counsel electronically this
10 evening. We'll have it ready to give to the jury first thing
11 tomorrow morning.

12 THE COURT: You will take out the things that have
13 been struck, sidebars.

14 MR. NORRIS: Exactly.

15 THE COURT: All right. Seat the jury, please.

16 THE CLERK: Yes, Your Honor.

17 (Jury present.)

18 THE COURT: Okay. Have a seat, ladies and
19 gentlemen.

20 Let the record reflect the Court has received
21 another note from the jury. It will be marked Court's exhibit
22 number 10 and reads as follows:

23 (So marked.)

24 Your Honor:

25 We have completed our deliberations for today and

1 will return tomorrow at our normal time. Can you please have
2 the testimony of Mr. P. Zuccaro -- I guess that's Peter
3 Zuccaro -- Mr. A. Ruggiano and Mrs. S. Raio for us tomorrow.

4 So what we will do is, the lawyers will get together
5 after you leave and they will get that testimony and it will
6 be ready for you the first thing tomorrow morning.

7 Have a good evening.

8 (The following occurred in the absence of the jury.)

9 THE COURT: Who is Mrs. Raio?

10 MR. NORRIS: Mrs. Raio was the woman that had
11 testified about the Danny Zahn murder 30 years ago, that -- at
12 that previous trial. She testified having been tampered with
13 before and after the testimony. She was in the last week of
14 the government's case.

15 THE COURT: The last week?

16 MR. NORRIS: Yes.

17 She was at the bar, talking to Danny Zahn before he
18 left, hoping he wasn't going to leave.

19 THE COURT: That's the one that got in the car and
20 followed?

21 MR. NORRIS: Yes.

22 MR. KNAPP: At the intersection.

23 THE COURT: I guess you will get -- I don't guess.
24 You will get the direct, the cross, redirect and recross.

25 MR. NORRIS: We will do that Your Honor.

1 THE COURT: Okay.

2 MR. JACOBS: Fine.

3 THE COURT: All right. Have a good night.

4 MR. NORRIS: Does Your Honor want us here in the
5 morning to be able to transmit it to the jury or is it enough
6 that once we agree we provide it to the courtroom deputy?

7 THE COURT: First of all, you have to agree.

8 MR. NORRIS: Of course.

9 THE COURT: If you want to, because I want them to
10 start first thing in the morning, maybe one prosecutor should
11 be here and maybe one of the defense counsel should be here.

12 MR. JACOBS: Sure.

13 THE COURT: To just look it over and say this is
14 what we are sending in, to agree.

15 MR. NORRIS: Very well.

16 MR. JACOBS: I will be here.

17 MR. JASPER: Judge, is it all right if I come in
18 tomorrow at about 11:30? I just had to take care of
19 something. I might be able to get in a little bit sooner it
20 might be about 11:30.

21 THE COURT: Yes. No problem.

22 MR. JASPER: Thank you, Judge.

23 MR. NORRIS: Thank you, Judge.

24 (Recess taken until 9:30, June 6th, 2012.)

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C O U R T E X H I B I T S:

Court's Exhibit number 9 2433

Court's exhibit number 10 2434